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Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF UTAH**

UTE INDIAN TRIBE OF THE UINTAH &
OURAY RESERVATION,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
INTERIOR, ET AL.,

Defendants.

**PLAINTIFF'S NOTICE OF
SUPPLEMENTAL AUTHORITY IN
SUPPORT OF MOTION TO AMEND**

Civil Case No. 2:21-CV-00573-JNP-DAO

Judge Jill N. Parish

Magistrate Judge Daphne A. Oberg

Pursuant to DUCivR 7-1(b)(4) and the Court’s request issued at oral argument held May 25, 2022, Plaintiff provides the following Notice of Supplemental Authority in support of its Motion to Amend.

At oral argument, Defendants’ counsel asserted that the equal protection clause of the Fourteenth Amendment, U.S. Const. amend. XIV, § 1, does not apply to corporations – including Plaintiff’s corporate form, federally chartered pursuant to 25 U.S.C. § 5124. In response, Plaintiff cited case law demonstrating that the equal protection clause does apply to corporations. The Court then requested that Plaintiff file a Notice of Supplemental Authority no later than Friday, May 27th setting forth case law stating this proposition, which Plaintiff here provides:

1. *Pembina Consol. Silver Mining & Milling Co. v. Com. of Pennsylvania*, 125 U.S. 181 (1888):

The inhibition of the amendment that no state shall deprive any person within its jurisdiction of the equal protection of the laws, was designed to prevent any person or class of persons from being singled out as a special subject for discriminating and hostile legislation. Under the designation of ‘person’ there is no doubt that a private corporation is included. Such corporations are merely associations of individuals united for a special purpose, and permitted to do business under a particular name, and have a succession of members without dissolution. As said by Chief Justice MARSHALL: ‘The great object of a corporation is to bestow the character and properties of individuality on a collective and changing body of men.’

Id. at 188–89 (quoting *Providence Bank v. Billings*, 29 U.S. 514, 562, 7 L. Ed. 939 (1830)).

2. *Wheeling Steel Corp. v. Glander*, 337 U.S. 562 (1949):

It has consistently been held by this Court that the Fourteenth Amendment assures corporations equal protection of the laws, at least since 1886.

Id. at 574 (citing *Santa Clara Co. v. Southern Pacific R. Co.*, 118 U.S. 394, 396 (1886)).

3. *MSM Farms, Inc. v. Spire*, 927 F.2d 330 (8th Cir. 1991):

The equal protection clause of the fourteenth amendment provides that no state

shall “deny to any person within its jurisdiction the equal protection of the laws.” U.S. Const. amend. XIV, § 1. A corporation such as MSM Farms is a “person” under the equal protection clause.

Id. at 332 (citing *Pembina*, 125 U.S. at 189).

Respectfully submitted this 27th day of May 2022.

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